

Memorandum



Date: September 9, 2026

To: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

RTRC
Supplement to
Agenda Item No. 1(G)1

From: Daniella Levine Cava *Daniella Levine Cava*
Mayor

Subject: Social Equity and Fiscal Impact Statements for Ordinance Amending Section 24-44 of the Code of Miami-Dade County

The proposed ordinance amends section 24-44 of the Code of Miami-Dade County, related to environmental protection in the incorporated and unincorporated areas, and provides for approval of non-recorded institutional controls for “no further action with conditions” site closures in connection with contaminated site cleanups at government owned or operated sites under certain circumstances. The proposed amendment would allow the use of non-recorded institutional controls (NRICs) in lieu of recorded restrictive covenants for sites owned or operated by governmental entities.

Social Equity Statement

While NRICs can be appropriate in limited circumstances, the proposed ordinance allowing NRICs in place of recorded covenants (RCs) is not aligned with Florida Department of Environmental Protection (FDEP) guidance for site rehabilitation under Chapter 62-780, Florida Administrative Code. FDEP specifies that non-recorded controls “should only be used to address groundwater contamination... [and] when addressing soil contamination... an RC is the only type of control that effectively ensures” long-term protection and maintenance of required controls.

Because the ordinance would authorize broader use of NRICs, it may jeopardize Miami-Dade County’s ability to continue utilizing Chapter 24-44(2) of the County Code to locally oversee contaminated site closures. If FDEP determines that our local program is no longer consistent with state standards, contaminated sites could potentially default to state jurisdiction. This shift would remove authority from the County and place responsibility with a state oversight structure that has historically operated with fewer resources, resulting in slower review timelines and increased uncertainty for the regulated community, including developers who rely on predictable and well-resourced local processes.

NRICs lack the permanence, visibility, and successor-binding protections of recorded controls, reducing notice and transparency for existing and future property owners, nearby residents, and other stakeholders that would typically be found during a title search as part of a real estate due diligence process. Their use may also impose involuntary restrictions on off-site property owners without sufficient notice or consent, undermining public trust and property rights. Additionally, NRICs remain vulnerable to policy changes, repeals, or variations in enforcement, further diminishing long-term environmental and community protection.

The ordinance also changes how appeals are handled. Currently, appeals of environmental-control decisions are heard by the Environmental Quality Control Board (EQCB), a quasi-judicial body

composed of engineers, scientists, and other technical experts specifically qualified to evaluate contamination, institutional controls, and public-health risks. Under the proposed ordinance, appeals would instead be directed to the Board of County Commissioners. This shift removes expert technical review from decisions that directly affect community health and environmental safety, placing complex environmental-health determinations in a general-policy forum rather than a technical one.

By relying on controls that can be repealed, altered, or lost over time—and by reducing the role of technical experts in evaluating their adequacy—the proposal creates avoidable public health risks. Without the permanence and notice provided by recorded covenants, communities may face increased exposure to contaminated groundwater or soil, placing residents, future property owners, and utility or construction workers at greater risk of harmful contact with environmental contaminants. This reduction in long-term protection compromises public trust and the County's ability to safeguard public health.

Fiscal Impact Statement

The proposed ordinance may increase Miami-Dade County's operational and administrative costs by assigning the DERM Director responsibility for determining whether each NRIC provides protection equivalent to a recorded covenant. Because NRICs lack the automatic notice and enforceability of recorded controls, the County may need to establish and maintain new monitoring and inspection procedures to track annual compliance certifications, evaluate legal sufficiency, oversee affected off-site properties, and verify that controls remain effective over time. These expanded oversight responsibilities may require additional staffing, administrative resources, and field inspection capacity, resulting in increased departmental costs, while also heightening the County's vulnerability to liability claims if an NRIC fails or is not properly monitored. Additionally, if a government entity acquires or begins operating a property with pre-existing contamination, then allowing NRICs could increase the government entity liability by creating continuing environmental stewardship and compliance obligations for environmental impacts attributable to prior owners, operators, or dischargers.



Roy Coley
Deputy Mayor